

General

OLL 83-2332

27 September 1983

MEMORANDUM FOR THE RECORD

SUBJECT: Danger Pay Allowance as Authorized in the
FY 1984 State Department Authorization Bill

1. Attached is a copy of the September 23, 1983 Congressional Record that records the Senate action on Danger Pay. Note that it clarifies the Foreign Service Act of 1980 on this subject.

2. Of equal or larger interest is Senator Edward Zorinsky's (D., NE) expression of concern over the Department's allowance authorities, and Senator Charles H. Percy's (R., IL) agreement to study this subject in the next session of Congress, in the Foreign Relations Committee.

3. Senior Department personnel have previously expressed concern that the Department was getting "greedy" about allowances and that the Congress would not take kindly to much more of it.

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Liaison Division
Office of Legislative Liaison

Attachment
As stated

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separate volume, a report on the implementation of this subsection. Not later than one year after the date of enactment of this section, the President shall submit a comprehensive report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on the United States strategy to protect and conserve biological diversity in developing countries."

ENVIRONMENTAL EXCHANGES

Sec. 703. Section 102 of the Mutual Educational and Cultural Exchange Act of 1961, as amended, is further amended by striking the final ":", inserting in lieu thereof a ":", and adding the following:

"(11) Interchanges and visits between the United States and other countries of scientists, scholars, leaders, and other experts in the fields of environmental science and environmental management."

Sec. 704. Of the amount by which expenditures for the Fulbright Academic Exchange Programs, for the Humphrey Fellowship Program, and the International Visitor Program for fiscal year 1984 and for fiscal year 1985 exceeds the expenditures for these programs in fiscal year 1982, five per centum shall be used to finance programs carried out pursuant to section 3 of this Act.

Mr. PELL. Mr. President, the amendment I am offering would add a new title, title VII: The International Environment Protection Act, to this bill. The provisions are virtually identical to those of S. 1067, cosponsored by Senator PERCY, Senator CHAFEE, Senator GLENN, and myself.

The bill has two provisions. The first provides an authority to the Agency for International Development to set up programs to assist countries in the protection of endangered species. The second provision creates an authority, within the Fulbright-Hays Act, for exchange programs in the international environmental area. The latter provision is already part of this bill.

Both provisions of this proposed new title have been adopted by the Senate Foreign Relations Committee. In addition the House Foreign Affairs Committee has approved language almost identical to section 702 on endangered species.

The provisions of this title are supported by the administration and a range of environmental and wildlife groups.

Approval of this amendment will expedite passage of the substance of S. 1067.

Mr. President, I believe this amendment is noncontroversial and will be agreed to by the manager.

Mrs. KASSEBAUM. Yes, it is agreeable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2220) was agreed to.

AMENDMENT NO. 2221

(Purpose: To amend section 103, Public Law 97-241, to allow the Department of State to open U.S. consulates)

Mr. PELL. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an amendment numbered 2221.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, after line 19, insert the following new section:

U.S. CONSULATES

Sec. 122. Section 103 of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241) is amended by adding the following language at the end of subsection (b):

"to the extent authorized to do so by each foreign government involved. A report shall be made to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives concerning the extent to which such foreign government authorization has been received, and the progress achieved with respect to the reopening of consulates in those respective countries."

Mr. PELL. Mr. President, this amendment will correct a technical deficiency in the provisions of Public Law 97-241 relating to the reopening of certain consulates. The language of the act precluded the opening of any new consulates until the administration reopened seven consulates which had been closed by the Carter administration.

The administration has reopened or in the process of reopening six of the consulates. In the case of the seventh, Mandalay, the Burmese Government has denied permission for the reopening. My amendment would allow new consulates to be opened in spite of the failure to reopen Mandalay. Should the Burmese Government grant permission to reopen Mandalay, then the provisions of Public Law 97-241 would apply and Mandalay would have to be reopened.

This amendment is at the request of the administration. I understand it is acceptable to the majority.

Mrs. KASSEBAUM. Yes, it is.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2221) was agreed to.

AMENDMENT NO. 2222

(Purpose: To clarify the Secretary of State's authority with respect to danger pay)

Mr. PELL. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes an amendment numbered 2222.

Mr. PELL. Mr. President, I ask unanimous consent that further reading

of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"Sec. Section 5928 of title 5, United States Code, is amended by adding at the end thereof the following: "The presence of nonessential personnel or dependents shall not preclude payment of an allowance under this section. In each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of the action taken and the circumstances justifying it."

Mr. PELL. The Foreign Service Act of 1980 authorizes the Secretary of State to grant a danger pay allowance to employees in foreign areas "on the basis of civil insurrection, civil war, terrorism, or wartime conditions which threaten physical harm or imminent danger" to their health or well-being.

Since enactment of this law, a question has arisen as to whether danger pay can be granted absent the formal evacuation of dependents and/or nonessential personnel from a post.

Although the act is silent on this issue, recent events such as the tragic bombing of the American Embassy in Beirut last April suggest that there are circumstances which warrant the payment of danger pay even when dependents and nonessential personnel are at a post.

Beirut and San Salvador, for example, are posts which are functioning in the midst of civil war. Clearly, conditions at these posts justify the granting of danger pay.

Because the level of violence at these posts fluctuates and sometimes suddenly, families and nonessential personnel are likely to be at the post when the danger factor is or becomes high. Under these circumstances, when the threat to life and limb is obvious, it is unfair not to grant danger pay simply because families and/or nonessential personnel are present.

Undoubtedly some would argue that families ought to be evacuated from the post when the danger factor is high. In my view, we must recognize that evacuation may not be desirable at posts such as Beirut and San Salvador.

The presence of families and nonessential personnel boosts morale and increases the efficiency of the posts. Moreover, the Secretary of State may choose not to evacuate posts such as these for foreign policy reasons.

Individuals who enter the Foreign Service recognize that they are undertaking not only a job but also a way of life which will require them to serve at times in dangerous areas. Danger pay is a way of rewarding them for their willingness to undertake these kind of assignments. When the danger exists, the allowance should be granted re-

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gardless of the presence of families or nonessential personnel at the post.

The amendment that I am offering clarifies the authority of the Secretary of State to grant a danger pay allowance when dependents and/or nonessential personnel are at a post. In order to insure that the allowance is being paid in circumstances which are consistent with congressional intentions, the amendment also requires the Secretary to report to Congress on the use of the danger pay authority.

This amendment is supported by the Foreign Service and its representative, the American Foreign Service Association. I urge its adoption.

● Mr. ZORINSKY. Mr. President, for some time I have been concerned with the statutory allowance authorities provided to the Foreign Service and with the relationship of the various allowances to each other. I am concerned that there may be double payments involved for the same circumstances and that there may be some inconsistencies in the way the Department of State is applying those authorities.

The other body in its version of this legislation has adopted an amendment which would allow the new allowances for dangerous circumstances to be paid more broadly than is now the case. As I noted during hearings on this bill, I believe this idea may be an effort to have it both ways. That amendment would allow danger pay to be paid even when dependents and other nonessential personnel remain at post. I wonder whether it is not inconsistent for it to be asserted on one hand that it is so dangerous that danger pay is warranted and at the same time to say that it is not dangerous enough to require dependents to be evacuated.

My initial inclination was to offer statutory language at this time which would deal with this inconsistency and with the question of whether danger pay should be allowed only when the executive branch has certified under paragraph 21(c) of the Foreign Military Sales Act that a state of hostilities exists. However, I agree that this is a complicated issue and not one which could be dealt with easily at this time. Therefore, if I can receive the assurances of the chairman of the Foreign Relations Committee that a thorough review will be conducted of the Foreign Service allowances structure at an appropriate time, I would be willing to defer proposing an amendment on this point.

Mr. PERCY. Mr. President, I thank my able colleague from Nebraska for raising a useful point about the desirability of reviewing Foreign Service allowances, but I agree with him that it would be better to conduct such a review within the Foreign Relations Committee prior to recommending legislative action to the Senate.

I have been in contact with the Department of State and I am assured by them that they are fully prepared to cooperate with the committee in con-

ducting this review. I have recently introduced by request of the administration S. 1136, which contains a number of amendments to the Foreign Service Act. It seems to me that consideration of this proposed legislation, most probably during the next session of Congress, would provide an appropriate vehicle. I thank the Senator for raising this point and I appreciate his willingness to defer dealing with this complicated issue until a more appropriate time.

Mrs. KASSEBAUM. Mr. President, this amendment is acceptable. I would say that I have shared some of the same reservations that the Senator from Nebraska, Senator ZORINSKY, has expressed regarding this. I am pleased that it is agreeable and that there will be a thorough study made of the issue. That is my understanding.

Mr. PELL. Mr. President, my understanding is that the amendment calls for danger pay to be accorded but the colloquy between Senators PERCY and ZORINSKY indicates that a study will be made.

I hope the amendment would be accepted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2222) was agreed to.

Mr. PELL. Mr. President, I ask that the vote by which the three preceding amendments were agreed to be reconsidered en bloc.

Mrs. KASSEBAUM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2223

(Purpose: To augment funding for U.S. participation in Tsukuba, Japan Exposition 1985)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2223.

On page 25, line 4, strike "\$636,000,000 for fiscal year 1984" and insert in lieu thereof "\$644,000,000 for fiscal year 1984".

On page 32, line 8, insert:
"Sec. 210. In addition to the amount already authorized for Tsukuba, Japan Exposition 1985, \$8,000,000 shall be available for the United States Information Agency for the fiscal year 1984 for use in connection with Exposition. These funds shall remain available until appropriations are made, and when the funds are appropriated they are authorized to remain available until expended."

Mr. STEVENS. Mr. President, if the United States is to participate in a meaningful way at the Tsukuba Exposition in Japan in 1985, it is essential that we provide adequate funding for our presence to be productive and effective. Presently, the funding authorized to the U.S. Information Agency is inadequate to realize this goal. In

order to correct this unfortunate situation, I offer this amendment to increase the funding for the U.S. participation in the exposition by \$8,000,000.

Mr. President, this exposition is quite important for those of us who live around the Pacific rim and our participation is desirable. I do hope the amendment will be accepted.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, the amendment of the Senator from Alaska is acceptable to the committee.

Mr. PELL. Mr. President, I should like to delay for 1 minute, because we want to check this point out. It is acceptable to me personally, but I have to look after the rights of another Senator.

Mr. STEVENS. Mr. President, I am agreeable with that. I understand another Senator did have an amendment to reduce the overall funding to the agency. I have not been advised of any specific opposition to this amendment. I ask unanimous consent that my amendment be temporarily set aside in order that the Senator from Idaho may proceed and that we bring it back after that.

The PRESIDING OFFICER. Without objection, the amendment of the Senator is set aside.

(Later the following occurred:)

Mr. STEVENS. Mr. President, I am informed that there is no objection now to my amendment. I would pursue my amendment and seek comment from my good friend from Rhode Island in view of the message we have just received.

Mr. PELL. There is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2223) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the Senator from Rhode Island. I think he acted very properly in making certain that there was no objection. I admire his tenacity in dealing with this matter. I am glad it has now been resolved.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCURE) proposes an amendment numbered 2224.

At the end of the bill add the following new sections: